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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/874,669	06/05/2001	David Elliott III	42133.13USPT	5777

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EXAMINER

YEUNG, JAMES C

ART UNIT	PAPER NUMBER
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3743

DATE MAILED: 01/03/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/874,669

Applicant(s)

Elliott III

Examiner

James C. Yeung

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Jun 5, 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-47 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 16) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 20) ☐ Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the subject matter of claims 20-21, and 44-45 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3, 9 -14, 17, 23-27, 33-38, 41, and 47 are rejected under 35 U.S.C. 102(a) as being anticipated by Lin. The structure and method as claimed are fully anticipated by Lin (note col. 3, lines 40-63).

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4. Claims 1-3, 13-14, 22, 24-27, 34, 37-38 and 46 are rejected under 35 U.S.C. 102(b) as being anticipated by Baumer. The structure and method as claimed are fully anticipated by Baumer (note element 5, fig. 2)..

5. Claims 1-4, 9-19, 23-28, 33-43, and 47 are rejected under 35 U.S.C. 102(b) as being anticipated by Linton. The structure and method as claimed are fully anticipated by Linton (note col. 2, lines 8-68)..

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 5-8, and 29-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lin.

Lin discloses the invention substantially as claimed. However, Lin does not disclose the particular flame retardant as claimed in claims 5-8 and 29-32.

It is noted that the particular flame retardant as claimed is deemed obvious matter of design choice obvious to one of skilled in the art as evident by applicants' own admission on

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pages 7-8 of the instant specification. No patentable weight can be given thereto in the absence of a showing of criticality by applicants.


8. Claims 20-21, and 44-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Linton in view of Lam.

Lam teaches the use of an object (note element 18, fig.1) for the purpose of forming a decorative candle body.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the candle body of Linton with an object in order to form a decorative candle body in view of the teaching of Lam.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James C. Yeung whose telephone number is (703) 308-1047. The facsimile phone number for this Art Unit is (703) 308-7764.

JY  
December 30, 2001

  
James C. Yeung  
Primary Examiner